

## **I.C.A.R. 27. Attendance of Court Reporters in District Court - Electronic Recording of Proceedings - Transcripts.**

Idaho Court Administrative Rule 27. Attendance of Court Reporters in District Court - Electronic Recording of Proceedings - Transcripts.

(a) District court reporter, attendance required. A court reporter certified in accordance with Rule 21, I.C.A.R., shall attend all civil trials, hearings on dispositive motions, criminal trials, arraignments, plea hearings, evidentiary suppression hearings, and sentence hearings in the district court, unless such attendance is waived in open court or by a written stipulation signed by the parties, or their counsel of record, and approved by the presiding district judge. The court reporter shall make a shorthand or machine shorthand verbatim record of all oral communications made during such trials or hearings in the presence of the presiding district judge, including communications by all parties, counsel, witnesses, jurors and the judge, except when not feasible during sidebar conferences.

(b) District court reporter, attendance not required. At the discretion of the presiding district judge, civil or criminal hearings that are not specified in paragraph (a) of this rule may be electronically recorded in lieu of steno-graphic means. When recording is by electronic means, a deputy clerk of court must be present during the hearing, and must be operating a fully functional electronic recording machine that is electronically recording all oral communications made in the presence of the presiding district judge, including communications of the parties, counsel, witnesses and the judge.

(c) Electronic recording. An electronic recording shall be made of all courtroom proceedings, regardless of whether a court reporter is also reporting the proceedings by stenographic means. Only if a court reporter is present may the court, for good cause, elect to proceed without an electronic recording. Electronic recordings of district court proceedings are the property of the court and shall be indexed and stored by the clerk of the district court for the period of time specified in rules 37 and 38 of the Idaho Court Administrative Rules.

(d) Official transcripts. When a court reporter stenographically reports court proceedings, the court reporter's certified transcript shall be the official transcript of the proceedings. If a court reporter has not reported a district court proceeding, a transcript or partial transcript prepared from the electronic recording of the proceeding becomes the official transcript of the proceeding for all purposes if it is prepared by the district court reporter or a transcriber under the control or supervision of the district court clerk and the transcriber executes a certificate of transcription attesting to its accuracy in the form prescribed by rule 83(k), I.R.C.P.

(1) Realtime transcripts. A realtime transcript is not an official transcript as defined under subsection (d) of this rule. Realtime services may be used for interpretive purposes, but cannot be cited to or used in any way as an official transcript.

(2) Electronic recording. An electronic recording is not an official transcript as defined under subsection (d) of this rule and cannot be cited to or used in any way as an official transcript.

(e) Use of official transcripts of district court proceedings. In all case where a party desires to place in evidence a transcript or partial transcript of a district court proceeding, or disclose the contents of a transcript during the examination of a witness, the transcript must be an official transcript as provided in subsection (d) of this rule.

(f) Estimate of Reporter's Fees - Filing. Upon the conclusion of any trial in the district court, or proceeding in an administrative agency, the reporter shall estimate the cost of preparing a transcript of the trial or proceeding and shall certify the amount thereof in writing which shall be delivered to the clerk and filed in the file of the action or proceeding. In the event the reporter fails to so estimate the fees for a transcript within two (2) days from the conclusion of the trial or proceed the estimated fees for preparation of the transcript shall be deemed to be the sum of \$200.00, unless the reporter shall thereafter file the reporter's estimated fees before the filing of a notice of appeal; provided, the reporter's estimated fee may be included in the minute entry of the hearing or proceeding or stamped or endorsed thereon.

(g) Request for official transcript. A request for an official transcript of a district court proceeding under this rule must be in writing, submitted to the court reporter or clerk of the district court, and provide substantially the following information: date of request; the proceeding, or portion thereof, to be transcribed; whether the requestor desires that the transcript be expedited; and the requested completion date. The transcriber shall notify the person requesting the transcript of the estimated date of its completion and the fee. Unless other arrangements are made with the approval of the district court reporter or district court clerk, the transcriber's fee shall be paid in full before delivery of the transcript to the person requesting it. Compliance with deadlines for the preparation of transcripts of proceedings for an appeal takes precedence over the preparation of transcripts made for any other purpose.

(h) Emergency assistance.

(1) Unanticipated absence of a court reporter. In situations where a court reporter is not available due an unanticipated absence such as death, illness, or temporary absence of a court reporter, and after a good faith effort a replacement cannot be found, the presiding judge may, with orwithout a stipulation of the parties or their counsel of record, order the recording of any proceedings listed in paragraph (a) to be by electronic recording as the official court record until such time as the unanticipated absence has passed.

(2) Anticipated absence of a court reporter. In those situations where a court reporter is not available due to an anticipated absence, including a vacancy in a court reporter position which has not been staffed pursuant to I.C. Section 1-1101, the Administrative District Judge of the affected judicial district by written Administrative Order, may suspend application of paragraph (a) and (h)(1) of this rule and order the recording of any or all proceedings listed in paragraph (a) to be by an electronic recording in accordance with paragraph (c) as the official court record until such time as the court reporter absence or vacancy has passed.

(i) Office location and attendance. District court reporters shall be available during regular office hours. The administrative district judge or designee may authorize a court reporter to work from an

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alternate location during regular office hours, provided the court reporter is available for court proceedings and may be contacted via a telephone or a call- in system approved by the administrative district judge to report to court.

(Amended March 15, 2004, effective July 1, 2004; amended January 3, 2008, effective March 1, 2008; amnded March 29, 2010, effective May 1, 2010.)

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